

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

<p>To:</p> <p>GLAXOSMITHKLINE CIP (CN925.1) Attn: Reed, Michael 980 Great West Road Brentford, Middlesex TW8 9GS UNITED KINGDOM</p>	<p>GlaxoSmithKline Corporate IP Received BRENTFORD</p> <p>09 FEB 2005</p>	<p>NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY, OR THE DECLARATION</p> <p style="text-align: right;">(PCT Rule 44.1)</p>
<p>Applicant's or agent's file reference: MAE 0560596/PCT</p>		
<p>International application No.: PCT/EP2004/013499</p>		
<p>Applicant: SMITHKLINE BEECHAM CORPORATION</p>		

1.	<input checked="" type="checkbox"/>	<p>The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.</p> <p>Filing of amendments and statement under Article 18: The applicant is entitled, if he so wishes, to amend the claims of the international Application (see Rule 46):</p> <p>When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the international Search Report; however, for more details, see the notes on the accompanying sheet.</p> <p>Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes 1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.36</p> <p>For more detailed instructions, see the notes on the accompanying sheet.</p>
2.	<input type="checkbox"/>	<p>The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.</p>
3.	<input type="checkbox"/>	<p>With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:</p> <p><input type="checkbox"/> the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.</p> <p><input type="checkbox"/> no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.</p>
4.	<p>Reminders</p> <p>Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.</p> <p>The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.</p> <p>Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.</p> <p>In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.</p> <p>See the Annex to Form PCT/IS-A/220 and, for details about the applicable time limits, Office by Office, see the PCT Applicant's Guide, Volume II, National Chapters and the WIPO Internet site.</p>	

<p>Name and mailing address of the International Searching Authority</p> <p> European Patent Office, P.O. 5818 Patensaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016</p>	<p>Authorized officer</p> <p>Sylvia Hermier</p>
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NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the letter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 265(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 16 and 19 cancelled; claims 14, 15 and 18 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference MAR/PR60596	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/EP2004/013499	International filing date (day/month/year) 25/11/2004	(Earliest) Priority Date (day/month/year) 27/11/2003
Applicant SMITHKLINE BEECHAM CORPORATION		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 6 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☒ Certain claims were found unsearchable (See Box II).

3. ☐ Unity of invention is lacking (see Box III).

4. With regard to the title,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

(+)- (2S, 3S) -2- (3-CHLOROPHENYL) -3, 9, 5-TRIMETHYL-2-MORPHOLINOL FOR TREATING ANXIETY

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

- a. the figure of the drawings to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

- b. ☒ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International Application No.

PCT/EP2004/013499

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61K31/5375 A61P25/22

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K A61P

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, EMBASE, CHEM ABS Data, BIOSIS, SCISEARCH, WPI Data, PAJ

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 01/62257 A2 (SEPRACOR INC) 30 August 2001 (2001-08-30) cited in the application page 2, line 20 - line 30 page 5, line 29 - page 6, line 5 page 8, line 15 - line 16 page 13, line 3 - line 20; claims; examples 1,2	1-8
X	US 2003/064988 A1 (MORGAN PHILLIP FREDERICK ET AL) 3 April 2003 (2003-04-03) cited in the application page 1, paragraph 6 - paragraph 11 page 2, paragraph 19; claims; examples	1-8
-/-		

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents:

"X" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claims or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document relating to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"I" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"R" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"S" document member of the same patent family

Date of the actual completion of the international search

31 January 2005

Date of making of the international search report

09/02/2005

Name and mailing address of the ISA

European Patent Office, P.O. Box 5816 Pöschelstr. 2
NL - 2280 HV Rijswijk
Tel: (+31-70) 340-2540, Tx: 31 651 epo nl
Fax: (+31-70) 340-3016

Authorizes officer

Hoff, P

INTERNATIONAL SEARCH REPORT

International Application No.

PCT/EP2004/013499

C (Continuation): DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to Claim No.
X	US 2003/032643 A1 (ASCHER JOHN A ET AL) 13 February 2003 (2003-02-13) cited in the application page 1, paragraph 6 - page 2, paragraph 12 page 2, paragraph 20; claims; examples	1-8
X	WO 00/51546 A2 (SEPRACOR INC) 8 September 2000 (2000-09-08) cited in the application page 2, line 9 - line 19 page 7, line 7 - line 8; claims; examples	1-8
A	WO 99/37305 A1 (GLAXO GROUP LIMITED; MORGAN, PHILLIP, FREDERICK; MUSSO, DAVID, LEE; PA) 29 July 1999 (1999-07-29) cited in the application the whole document	1-8
A	BONDAREV M L ET AL: "Behavioral and biochemical investigations of bupropion metabolites" EUROPEAN JOURNAL OF PHARMACOLOGY 01 AUG 2003 NETHERLANDS, vol. 474, no. 1, 1 August 2003 (2003-08-01), pages 85-93, XP008042155 ISSN: 0014-2999 the whole document	1-8

INTERNATIONAL SEARCH REPORT

International application No.
PCT/EP2004/013499**Box II Observations where certain claims were found unsearchable (Continuation of Item 2 of first sheet)**

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:

Although claims 5-8 are directed to a method of treatment of the human/animal body, the search has been carried out and based on the alleged effects of the compound/composition.
2. ☐ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box III Observations where unity of invention is lacking (Continuation of Item 3 of first sheet)

This International Searching Authority found multiple inventions in this International application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No.

PCT/EP2004/013499

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
WO 0162257	A2	30-08-2001	US 6342496 B1	29-01-2002
			US 6337328 B1	08-01-2002
			AU 6926800 A	03-09-2001
			CA 2362361 A1	08-09-2000
			CA 2400482 A1	30-08-2001
			CZ 20022857 A3	14-01-2004
			EP 1165086 A2	02-01-2002
			EP 1259243 A2	27-11-2002
			HU 0300030 A2	28-05-2003
			JP 2004513061 T	30-04-2004
			JP 2003529563 T	07-10-2003
			PL 357389 A1	26-07-2004
			US 2002052340 A1	02-05-2002
			US 2002052341 A1	02-05-2002
US 2003064988	A1	03-04-2003	US 2002019396 A1	14-02-2002
			US 6274579 B1	14-08-2001
			US 2003027827 A1	06-02-2003
			US 2003083330 A1	01-05-2003
			US 2003032643 A1	13-02-2003
US 2003032643	A1	13-02-2003	US 2002019396 A1	14-02-2002
			US 6274579 B1	14-08-2001
			US 2003027827 A1	06-02-2003
			US 2003083330 A1	01-05-2003
			US 2003064988 A1	03-04-2003
WO 0051546	A2	08-09-2000	US 6362227 B1	26-03-2002
			AU 775642 B2	12-08-2004
			AU 3505500 A	21-09-2000
			CA 2362361 A1	08-09-2000
			EP 1165086 A2	02-01-2002
			JP 2004513061 T	30-04-2004
			US 6342496 B1	29-01-2002
			US 6337328 B1	08-01-2002
			US 2002052340 A1	02-05-2002
			US 2002052341 A1	02-05-2002
			AU 3711100 A	21-09-2000
			CA 2362489 A1	08-09-2000
			EP 1156794 A1	28-11-2001
			JP 2003520193 T	02-07-2003
			WO 0051595 A1	08-09-2000
			US 2002147238 A1	10-10-2002
			US 2004019111 A1	29-01-2004
WO 9937305	A1	29-07-1999	AP 1229 A	04-12-2003
			AU 755536 B2	12-12-2002
			AU 2328099 A	09-08-1999
			BR 9907203 A	17-10-2000
			CA 2318268 A1	29-07-1999
			CN 1294513 T	09-05-2001
			EA 2410 B1	25-04-2002
			EE 200000438 A	17-12-2001
			EP 1047428 A1	02-11-2000
			HR 20000494 A1	31-12-2000
			HU 0100900 A2	29-05-2002
			ID 26334 A	14-12-2000
			JP 2002501025 T	15-01-2002

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/EP2004/013499

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9937305	A1	NO 20003721 A	19-09-2000
		NZ 505809 A	27-09-2002
		NZ 520349 A	27-02-2004
		NZ 529316 A	28-05-2004
		PL 342012 A1	07-05-2001
		SK 10912000 A3	09-04-2001
		TR 200002126 T2	21-12-2000
		US 6274579 B1	14-08-2001
		US 2002019396 A1	14-02-2002